

The Leesburg Planning Commission met on Thursday, April 6, 2006 in the Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, Wade Burkholder, Brian Boucher, Christopher Murphy, David Fuller, William Ackman and Linda DeFranco

### **CALL TO ORDER**

The meeting was called to order at 7:00pm by Chairman Wright

### **PLEDGE OF ALLEGIANCE AND ROLL CALL**

Present: Chairman Wright  
Commissioner Bangert  
Commissioner Barnes  
Commissioner Burk  
Commissioner Kalriess  
Commissioner Moore  
Mayor Umstattd

Commissioner Hoovler was absent.

### **ADOPTION OF AGENDA**

Commissioner Kalriess moved to adopt the agenda as presented.

Motion: Kalriess  
Second: Burk  
Carried: 6-0

### **APPROVAL OF MINUTES**

Commissioner Bangert moved to adopt the minutes of the February 16, 2006 meeting as presented.

Motion: Bangert  
Second: Moore  
Carried: 6-0

Commissioner Bangert moved to adopt the minutes of the March 2, 2006 meeting.

Motion: Bangert  
Second: Barnes  
Carried: 5-0-1

Commissioner Moore abstained from this vote.

**CHAIRMAN'S STATEMENT**

Chairman Wright reviewed the agenda for the evening, stating that there would be a Petitioner session and two public hearings.

**PETITIONERS**

None

**PUBLIC HEARING**

TLSE 2005-0002 Dale Lumber Company. 16 Cardinal Park Dr., SE – Asking for an extension of time for use of outdoor storage facilities.

Brett Clark of C&E Real Estate Services came forward and asked the Commission for direction and asked to defer their presentation until after the staff presentation had been made.

Wade Burkholder, Senior Planner gave the staff presentation stating that primarily a special exception approval was being sought. They have requested that the condition to have the outdoor storage use be limited to a 7 year time period be deleted. Staff recommends approval with the following conditions: 1) Substantial Conformance; 2) Sunset Provision – this special exception shall not transfer to a new user without a new special exception approval; 3) Inspections – the property will be inspected every two years; 4) Landscaping; 5) Defined Area – used limited to Proposed outdoor storage lot; 6) Parking; 7) Archived paperwork – limit on storage of archived paperwork; 8) Sea containers – shall not be stacked; 9) Hazardous Materials – no hazardous material storage; 10)Waivers – the special exception must comply with the Subdivision and Land Development Regulations, the Zoning Ordinance and the DCSM along with all town regulations.

There were no members of the public that came forward to speak.

Brett Clark came forward at this time. Their issue is with the sunset condition. The one proposed this evening, is a new one. They would like to see this removed. They have been there six years and have not had any complaints. They prefer that the sunset provision be removed. They can't predict the future.

Chairman Wright asked if he worked on this six years ago. Mr. Clark responded that he had. What were the points of resistance and why was a sunset clause recommended in the first place. It was not in conformance with the town plan at that time. The first time they applied there was no town attorney, the second time there was one. There were some problems with the original special exception request, but the application was finally accepted and approved for seven years. To renew this, they came in over a year ago to inquire about the current practice. They were told to wait for the new Town Plan. This was a matter of deciding whether to stay at the current site or not. Chairman Wright

asked if it was their preference to have no sunset provision, one reason being that should someone buy Dale lumber out but operate as the same business, then they would have to automatically reapply for a special exception.

Commissioner Barnes asked what was being stored in the buildings. Mr. Clark said the buildings were used as a by right use. It's the storage area that is subject to the sunset provision. The containers are used for finished product, and there is also lumber stored in the area.

Commissioner Moore asked about the ownership of the land and the lessee. Mr. Clark responded that there is a holding and operating company and Dale Lumber is the lessee.

Chairman Wright asked staff if they could legally add a statement saying "or successor" to the sunset clause? Brian Boucher said they could limit it to a succession of users. They could also put in it terminates when sold plus one year, or they can totally strike the sunset clause. Susan Swift commented that this decision should be consistent with other cases. In the Town Plan this area could turn over to other uses.

Commissioner Bangert said she understood the goal and does not want to cause any detriment to the current business. There are no other uses near the property that are being affected she feels that the sunset clause could be eliminated in this case.

Chairman Wright agreed, mentioned previous sunset clauses and how they affect their surroundings.

Commissioner Kalriess said that in retrospect, it is not their intention to cause any hardship to existing businesses. He did suggest that there be more trees around the area to buffer it.

Chairman Wright commented that the applicant wished to strike #7 with regard to archived paperwork. Further, he asked in the American Society of Testing and Materials (ASTM) standard practice E1527-94 be specifically referenced, or if reference could read "or the most current version thereof". The latter verbiage was agreed upon

Commissioner Bangert moved to approve TLSE 2005-0002, Dale Lumber Company with the conditions in the staff report, deleting item #2 and item #7. Commissioner Moore offered the friendly amendment modifying the language in item #9 to state "or the most current version thereof" with regard to ASTM standard practice.

Motion: Bangert

Second: Barnes

Carried: 6-0

TLSE 2005-0006, Commerce Bank, bank with drive through. Sally Gillette spoke on behalf of the applicant. She displayed a rendering of the site, explaining the way the

bank would be situated on approximately one half acre at the corner of Plaza Street and East Market Street. She explained that the bank was designed to look like Leesburg architecture, a brick structure. She explained how they will relocate the entranceway onto Plaza Street. This application has gone before the Board of Architectural Review and was approved.

Chris Murphy presented the staff report which recommends denial based on the application's inconsistency with the Town Plan, and the failure to comply with minimum site lighting requirements. The Town Plan compliance calls for careful community design along the gateway into town and the proximity to the Crescent District. It is the intent to extend the character of the Old and Historic District throughout East Market Street. With regard to site lighting, the information provided does not specify the illumination levels, and based on the detail, appear the lighting will exceed the DCSM levels. Mr. Murphy went on to say that the site development will include a right turn lane onto Market Street from Plaza street and a relocation of the entrance from the site onto Plaza Street which will be advantageous. He did mention that if this lane is put in, then the adjustments to the traffic light must also be made.

Chairman Wright questioned whether the DCSM addressed the fact that entranceways must line up from each other. Bill Ackman of Engineering responded that they do prefer that entrances line up, but review them on a case by case basis. He said their opinion is this location indicated is the best location for the entrance.

Commissioner Moore asked about the separator island and why it wouldn't be extended to prevent left turns. Mr. Murphy responded that would close off the traffic from the opposite direction.

At this time the meeting was opened to public comment. There was no public comment.

Sally Gillette said that they would work on the lighting plan and agree to follow DCSM guidelines. With regard to the right turn lane, this is already in the town CIP. With regard to the setback requirements, their building location follows the guidelines.

Commissioner Moore asked about the applicant's stand on the signalization. Sally Gillette responded that any change is not warranted by the application, but they are willing to discuss this with the town. They are not willing to bear the cost at this time. Chris Cabbott with Wells and Associates came forward and addressed the signal modification issue stating an estimated cost of \$50K per quadrant. Chairman Wright asked if the lane is put in and the signal improvements are not made, what happens? Mr. Ackman said this would create an unsafe situation.

Commissioner Moore commented on the BAR vote on this building design saying it was a 3-2 vote approving it. Chairman Wright said yes, this was correct. Most people felt they were fine with the design, some said the design was not consistent to H-2 guidelines. Commissioner Kalriess asked how this site differed from other sites with regard to the Town Plan and drive through banks. David Fuller, Chief of Comprehensive Planning,

stated that this was submitted after the Town Plan had been adopted. This is considered an important corner in the gateway to Leesburg and the lead in to the Old and Historic District. Mr. Kalriess went on to ask if the drive through would be problematic to complying with the Town Plan. Mr. Fuller responded that it could be if it impedes design of the site. Commissioner Kalriess then addressed the issues of trees versus bushes on the site. He had hoped there would be street trees, however the site plan seems to indicate bushes. Mr. Murphy said that the landscaping has to be handled carefully since there is a sight issue at the corner. Also, putting in both trees and bushes create a safety issue around the building.

There was further discussion on the building location and how it can be situated dependent on the setback required by the zoning ordinance. Parking and landscape screening was also discussed. Sean Cross of Bolger Engineering explained that some of the trees presently there are no longer acceptable. They will be starting along Plaza Street and move along Market Street and removing the hedgerows that are currently failing. They will put in some canopy trees along with low shrubbery. Another point brought up was the location of the handicap parking space and the resulting walk to the bank through the traffic lane.

Chairman Wright asked staff if the design and the separate design of the drive through is not consistent with BAR guidelines. Brian Boucher said there wasn't a concern at the BAR level. Mr. Wright asked if the BAR erred, is this something that's a done deal? Brian Boucher said this is located in the H-2 district, whose guidelines are currently being reviewed. A BAR decision can be appealed, but it must be within 30-days. The appeal would go to the Town Council for final decision. Commissioner Kalriess had an issue with massing. Whether this is a one or two story building was looked at by the BAR, but what about the land use portion that the Planning Commission would address? Chairman Wright also asked about the transportation issue with the right turn lane, but not new signalization. The CIP project referenced is not currently funded for construction until FY08. When would the bank be done? Mike Banzhaf came forward and said this would be at the site plan stage. Brian Boucher said if part of improvements are completed, but not all that are required, it becomes a problem. The street light modification and pole movement are critical to the intersection. Bill Ackman said the site plan should never be approved without the street light modification.

Chairman Wright commented that when he saw the design, he felt it didn't meet the guidelines. While he has great respect for the BAR, he felt the backlit glass shining across Market Street at night would certainly have raised question. He has concerns with the architecture and the fact that the intersection is not wholly in place.

Commissioner Bangert commented that this should be deferred to allow the attorneys to speak with the applicant over the concerns raised tonight. Chairman Wright stated that they elect to defer and this will come up the first meeting in May.

Chairman Wright asked if other members had concerns, would they be willing to support an appeal, as advised by staff?

Commissioner Moore – appeal; Bangert – appeal; Burk – surprise it was approved and supports appeal; Kalriess – hesitant to go against BAR, but agrees with the other comments; Barnes – hesitant to appeal.

Commissioner Wright said that since it is not the purview of the Commission to appeal a BAR decision, he would leave the decision open to individuals.

At this point there was a brief recess.

TLZM-2005-0004 – Loudoun Sport and Health Club/Wolf Furniture, Rezoning of 1.92 acres from R-6 to B-2. Wade Burkholder stated that he received no further public comment on this application. He did provide the Commission with a marked up proffer statement. One significant change was the amount of proffer funding from \$40K to \$190,995 for frontage improvements and \$79,225 for off site transportation. They also increased the amount of field stone on the building. The landscape plan has not been changed and they are still requesting modification for species placement. Staff recommends approval based on meeting the conditions set out.

Commissioner Moore asked about the timing of the proffers and whether it remained the same. Would there be any out of pocket expenses for the town? Mr. Burkholder said that there should be minimal expense.

Commissioner Bangert asked about the signage. Will there be any signage on Market Street to direct people onto Fort Evans to the site? There is not much room at the corner to place any signage. Mr. Burkholder said that currently the town does not allow this type of signage. Mr. Romeo, representing the applicant, mentioned that perhaps they can put a sign up on site that directs people to the entranceway.

Commissioner Barnes was pleased that the proffers came through and thought this was going to be a good business to have in town.

Chairman Wright reiterated what would be in the area surrounding this proposed store and asked if they felt comfortable in this type of scenario. Mr. Romeo said they have several locations that are situated like this, so the site is not a problem at all. This was reiterated by Mr. Wolf.

Commissioner Kalriess asked about the signage. Currently there are five signs slated. He has some concerns that there will not be much visibility on the western side of the building. Is there some signage that you could do without? Mr. Wolf responded that ideally they would like two signs and one directional sign. Mr. Boucher said normally this would get two signs. There is concern about the location being readily accessible to the general public. He suggests that there be a sign that allows them to add the address.

Commissioner Bangert moved that the Planning commission approve conditional approval of TLZM 2005-0004 Loudoun Sport and Health Club/Wolf Furniture incorporating the proffer statement revised March 27, 2006.

Commissioner Bangert asked if the applicant needed to bring in a signed waiver for the Zoning administration and Council. She also asked if the Hagerstown model design would become an issue as this application moves along. They had favored that design, but the original design remained, albeit with some modifications.

Commissioner Kalriess thanked the applicant for the fieldstone improvements and the proffer package.

Chairman Wright reiterated his concern about this use within an office area, however, the applicant addressed the concern. He was also pleased that the only use for this area right now is as a furniture store. Should something else evolve, it would have to go through reapplication.

Motion: Bangert  
Second: Burk  
Carried: 6-0

#### **COUNCIL REPRESENTATIVE'S REPORT**

None

#### **STAFF AND COMMITTEE REPORT**

Susan Swift passed around a copy of the powerpoint presentation that she will use for the budget presentation. One extra addition this year is \$50K for a consultant for a fiscal impact model.

#### **OLD BUSINESS**

Commissioner Kalriess asked where they stood with the JLMA/UGA subcommittee? Has there been any further discussion with the county Planning Commission. Chairman Wright stated that as soon as PUGAMP is over, they will be able to start meeting. Commissioner Bangert requested that she be replaced on this committee. Chairman Moore recommended Commissioner Burk and Commissioner Moore recommended Commissioner Burk. The original motion by Mr. Moore was seconded by Commissioner Kalriess.

Motion: Moore  
Second: Kalriess  
Carried: 6-0

Commissioner Kalriess asked that a meeting would be scheduled to bring Mr. Burk up to speed. Mr. Kalriess said he met with LCSA and they have no engineering plans for Creekside. This needs to be discussed with relationship to the JLMA/UGA. Following discussion, Chairman Wright suggested that Wednesday, April 12<sup>th</sup> at 8:30am be the next meeting date and time for this subcommittee.

### **NEW BUSINESS**

Commissioner Bangert moved that the Planning Commission recommend to Town Council that comprehensive revisions to the Leesburg Zoning Ordinance be initiated to implement the goals and objectives of the 2005 Town Plan and to amend the various zoning provisions as required for the public necessity, convenience, general welfare and good zoning practice.

Motion: Bangert  
Second: Kalriess  
Carried: 6-0

Commissioner Bangert moved that the Planning Commission recommend to Town Council that amendments to the Subdivision and Land Development Regulations be initiated to (1) incorporate the mandatory provisions of Section 15.2-2241 of the State Code that are not currently within the Town's Subdivision and Land Development Regulations, (2) include some optional provisions of Section 15.2-2242 of the State Code into the Subdivision and Land Development Regulations, and (3) implement the goals and policies of the 2005 Town Plan.

Motion: Bangert  
Second: Kalriess  
Carried: 6-0

Commissioner Kalriess asked if this included the DCSM. The response was no, since that is a third, staff initiated document.

### **ADJOURNMENT**

The motion was made to adjourn at 9:57pm

**Prepared by:**

**Approved by:**

---

**Linda DeFranco, Commission Clerk**

---

**Kevin Wright, Chairman**



